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**BEFORE THE DISTRICT FORUM (UNDER CONSUMER PROTECTION ACT,
1986) MEDAK AT SANGAREDDY**

Present : Smt Meena Ramanathan, B.Com., Lady Member
Sri G. Sreenivas Rao, M.Sc., B.Ed., LL.B., PGADR (NALSAR) Member

Wednesday the 24th day of August 2011

CC.No. 10 of 2011

Between :

1. K. Innaiah S/o K Showraiah
Age 52 yrs, Occ: Govt. Servant & RTI Activist
R/O H.No. 5-1-32/7/G
Sai Nagar, Sangareddy,
Dist. Medak.

2. S. Chandra Reddy S/o Sri Anji Reddy
Age 45 yrs, occ: Govt Servant & RTI Activist
R/O Gummadidala, Jinnaram Mandal,
Dist. Medak.



..... Complainants

And

1. Public Information Officer,
District Education Office,
Sangareddy, Medak District.

2. District Education Officer,
District Education Office,
Sangareddy, Medak District.

.... Opposite parties

This case came up for final hearing before us on 05-08-2011 in the presence of complainant in person and Sri K. Narsing Rao, Govt. pleader for opposite parties, upon hearing arguments of both sides, on perusing the record and having stood over for consideration till this day, this Forum delivered the following:

ORDER

(Per Se G. Sreenivas Rao, Member)

This complaint is filed under section 12 of CP Act 1986 to direct the opposite parties to provide information at free of cost and to pay a compensation of Rs. One lakh towards delay and mental agony caused.

1. (a) The brief facts of the case are that the complainants made an application on 28-09-2010 under RTI Act to opposite party No. 1, to furnish the information regarding No : 1). Selected list of all school assistants of 1996 DSC with merit and marks (who got appointment order in 1997) and No : 2). 1996 DSC appointed school assistants' seniority list. The OPI sent a reply letter with Proc.no:RC no. 5987/B5/2010 dt.20-10-2010 containing the information sought in one page

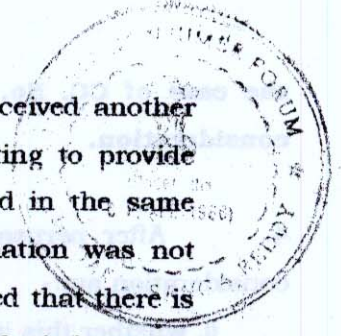
enclosed to that letter. They noticed that one page enclosure (in proforma III) only three (3) names of persons who were recruited under DSC Recruitment 1996 (limited) Medak District, pertaining to Maths & Science School Assistants only. But the complainants sought list of all School Assistants of 1996 DSC Selection and Seniority list of 1996 DSC along with merit and marks.

(b) Subsequently, The complainant sent a notice dt. 15-11-2010 to opposite party No. 1 to provide information as asked for, within 15 days, to this the opposite party No. 1 responded through letter RC No. 5987/B5/RTI/2010 dt. 09-12-2010, asking the complainant to submit a copy (Xerox) of the enclosure of the earlier letter dt. 28-09-2010 of the complainant for further action. The complainant reacted to opposite party No. 1 in the form of second notice dt. 18-12-2010 furnishing the details sought along with Xerox copies of the first application of complainant.

(c) The complainant submitted that, he received another letter bearing RC No. 5987/B5/2010 dt. 11-01-2011 from opposite party No. 1 stating that the available information was already sent through our letter dt. 20-10-2010 and the same may be considered.

(d) The complainant finally submits that he paid Rs. 10/- prescribed fee & sought information under RTI Act 2005 and also willing to pay Rs. 2 per page towards the cost of information also. Despite all the above, The opposite parties could not furnish the required information as sought nor under Sec 6 (3) of RTI Act transferred to another public authority and failed to adhere to the Sec 4 (1) of RTI Act of 2005, amounting to deficiency of service under CP Act. Hence the complainants knocked the door of this forum to direct OP's to provide information free of cost & to pay Rs. One lakh as compensation for the delay and mental agony in the interest of justice & equity.

2. (a) The opposite parties stated in their version that the OP 1 received an application from the complainant which was received by OP 2 on 01-10-2010 but without date, in which the complainant sought a) Selected list of all School Assistants of 1996 DSC with merit & marks and b) 1996 DSC appointed School Assistants' seniority list. The opposite parties submitted that they sent information of limited recruitment vide office proc RC No. 5987/B5/2010 dt. 20-10-2010, to the complainant no. 1, even though he did not mention specifically particular recruitment. Further the OP's stated that the individual is not clear in his representation with reference to the information he required whether it is regular DSC 1996 or limited recruitment of DSC 1996.



(b) The opposite parties have also not denied that they received another application from complainant dated 15-11-2010 (notice) requesting to provide information as asked for, in his application dt. 28-09-2010, and in the same letter he threatened the PIO of DEO Medak that if the information was not provided within 15 days, he will seek legal remedy. The OP's denied that there is no provision in RTI Act for notice to the PIO by the complainant if the information is not provided, but he is at liberty to approach the Appellate Authority for remedy. However available information was already furnished to the complainant within a period of 30 days as prescribed in the Rule 7(1) of RTI Act 2005. So there is no delay in furnishing the information to the complainant.

(c) The opposite parties also submitted that the information sought by the complainant was not readily available in the office and these facts were reported to the Director of school education. The Opposite parties expressed that some of the records were eaten by white ants when they were cleared in the 'Clean & Green Programme'. Most probably the record pertaining to the DSC 1996 was also eaten by white ants. Also added that the PIO intends to provide required information as asked by the complainant, but the information of DSC 1996 was not available in the office, the same could not be provided.

(d) The opposite parties also stated that the applicant should seek remedy at appellate authority as per RTI Act 2005. The complainant not exhausted the channel in the RTI Act 2005 but filed a case in this Hon'ble Forum.

(e) The opposite parties also pointed out that the complainant did not specify the reasons in his complaint and in what way the list of DSC 1996 was concerned to them. The sole intention of the complainants only to create litigation by filing such applications under RTI Act 2005.

(f) Finally, the opposite parties submitted that there was any negligence nor any deficiency on the part of the opposite parties as such the complaint is liable to be dismissed by imposing considerable penalty on the complainant.

3. In support of the claim, the complainant filed evidence affidavit and got marked Exs.A1 to A6 documents. The opposite parties also filed counter evidence affidavit with Exs. B1 to B7 documents marked. Both parties filed their respective written arguments and advanced oral arguments also.

The complainant filed the citation of Hon'ble National Commission, New Delhi in RP no. 1975 of 2005 dt. 28 May 2009 and also Article published in monthly magazine - 'Consumer Right' in telugu citing

the case of CC. No. 188 of 2009 of Dist. Consumer forum at Guntur for consideration.

4. After perusal of the submissions of both the counsel the points for consideration are:-

i). whether this instant case can be allowed under the CP Act of 1986?

ii). whether deficiency in service caused by the opposite parties. If so, What relief?

Points:

5. In the instant case, the applicant/complainants sought some information under the provisions of the RTI Act of 2005. The opposite parties failed to furnish complete information within the specified time period. Further the opposite parties dragged the issue from 28-09-2010 till 11-01-2011 and finally accepted that the opposite parties sent the available information (DSC 1996) as the records were eaten by White Ants and they were cleared in the 'Clean & Green' programme.

6. From the above, it is clear that the opposite parties/Public authority not handled the case seriously which made the applicant/complainant to opt for filing for redressal before this forum. If the opposite parties are conscious about their role under section 4(1) of RTI Act of 2005, and would have assisted the applicant/complainants in a proper way, instead of unnecessary dragging the case months together. Alternatively, if the opposite parties knew the information sought by the applicant/complainant was not available with them, they should have informed the applicant accordingly within 5 days from the receipt of application or should have transferred to another public authority for further action. But working at a snail's pace in the opposite parties functioning is vividly seen in the instant case. **Though the RTI Act of 2005 brought a statutory right to every citizen, yet he has been suffering till date. "An informed citizenry will be better equipped to keep necessary vigil on the instruments of governance and make the government more accountable to the governed.** Added to the above, the expression of the opposite parties in their counter (page 3) para 5, very casually accepted that "The record pertaining to the DSC 1996 was also eaten by White Ants." This information about the selected school assistants based on merit and marks and their seniority list, is very vital document in conflict resolution usually such records are preserved in duplicate in the Director of School Education. It seems the PIO is not aware of the public records management & electronic recording system.

So here the applicant/complainant fed up with the provisions of the RTI Act and chosen an alternative method of redressal of his grievances where he can also be awarded compensation for the negligence & deficiency in service caused by an authority.

7. In this connection one should appreciate the awareness of the complainants who submitted the citation of National Commission in RP. No. 1975 of 2005 (against the order dated 1-10-05 in Appeal no : 244/04 of the state commission Karnataka) dt.28-05-2009/Dr.S.P.Thirumala Rao vs. Municipal Commissioner, Mysore which held that section 3 of the Consumer Protection Act 1986 provides an additional remedy and it is a case of deficiency of service. As such the applicant/complainant is entitled to revoke the jurisdiction of District Forum. Moreover the applicant is a consumer who has availed the services of opposite parties on payment of application fee for the purpose. It was further held that the remedy under RTI Act would take care of disciplinary action and penalty against the competent authority in not furnishing the information but no remedy is provided under the said act to the applicant seeking information, where in if information sought is not provided resulting in deficiency of service on that count. So Karnataka Right to Information Act does not have any oversiding effect on C.P. Act, 1986

For the aforesaid reason, the instant case can be allowed under the CP Act of 1986.

8. Now from the perusal of the exhibits A1 & B1, they are the same copies of the first application made by the complainant without date, to the PIO. However in the Ex A1 it was acknowledged by the official seal of DEO with date printed as 28 September, 2010. It is not denied by the opposite parties also. The Ex A2 & B2 are also the same copies of the reply letter of the opposite parties dated 20-10-2010 where in mentioned the information sought is sent in one page as enclosure, which pertains to incomplete information furnished by the opposite party No.1. Once again the Applicant/ Complainant demanded the complete information through his letter dt.15-11-2010 (Ex A3 & B4). The opposite party sought a copy of the first application through his letter dated 9-12-2010 (Ex A4 & B5) which is nothing but dragging the case, which followed letter of complainant (Ex A5 & B6) as second notice dated 18-12-2010 and ultimately the OP sent a letter dated 11-01-2011 (Ex A6 & B7) stating that the available information was already sent, ending the protracted correspondence after nearly 4 months but thereon the issue is pending as on date.

9. Furnishing incomplete information by opposite party, latter confessing that available information was sent after nearly four months and in the counter, the Ops submitted DSC - 1996 was not readily available and it must have been eaten by white ants leads to killing of Right to Information of the citizen under the RTI Act of 2005. The very purpose of the act is defeated by the unremitting attitude of the white collar custodians in the government establishment. The instant case is a clear cut case of deficiency in service and it is proved by the Applicant/Complainants who deserve compensation for mental agony in addition to the required information free of charge as per section 7(6) of the RTI Act 2005, where a public authority fails to comply with the time limit.

10. In the result, the complaint is allowed and the opposite parties are directed to furnish complete information about DSC 1996 - Selection of all School Assistants as per merit/marks including seniority list of the appointed candidates, free of charge and also directed to pay a compensation of Rs 20,000/- for the mental agony and costs within a period of one month from the date of this order.

Typed to dictation, corrected and pronounced by us in the open forum
this 24th day of August, 2011.

Sd/-
LADY MEMBER

Sd/-
MALE MEMBER

APPENDIX OF EVIDENCE

For Complainant:
-Nil-

For Opposite parties:
-Nil-

WITNESS EXAMINED

For Complainant:
-Nil-

For Opposite parties:
-Nil-

EXHIBITS MARKED

For Complainant:

For Opposite parties:

Ex.A1/dt. 28.09.2010 - Application of Complainants.

Ex.B1/dt.-nil- Attested copy of Ex.A1.

Ex.A2/dt.20.10.2010 - Letter and proforma- III of opposite parties to complainant No.1.

Ex.B2/dt.20.10.2010 - Attested copy of Ex.A2.

Ex.A3/dt. 15.11.2010 - Notice of complainant No. 1 to opposite party No. 1.

Ex.B3/dt. -nil- Attested copy of selection list proforma - III.

Ex.A4/dt. 09.12.2010 - Letter of opposite parties to complainant No.1.

Ex.B4/dt. 15.11.2010 - Attested copy of Ex.A3.

Ex.A5/dt. 18.12.2010 - Second notice of complainant No.1 to opposite party No. 1.

Ex.B5/dt. 09.12.2010- Attested copy of Ex.A4.

Ex.A6/dt. 11.01.2011 - Letter of opposite parties
to complainant No. 1.

Ex.B6/dt. 18.12.2010 - Attested copy of Ex. A5.

Ex.B7/dt. 11.01.2011 - Attested copy of Ex.A6.

Sd/-
MEMBER

Copy to:

- 1) The Complainant
- 2) The Opposite parties
- 3) Spare copy

**Copy delivered to the Complainant/
Opp.Parties On _____**

Dis.No. 343 /2011, dt. 29/8/2011

C-

R-

[Signature]

(By Order)

[Signature]
Ghorasadal,

Dist. Feroza. Sangareddy
Mandate No. 14 - 502 Om

29/8/2011